

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

EDWARD BESS, SR., : CIVIL ACTION
Petitioner, :
v. :
UNITED STATES OF AMERICA, :
Respondent. : NO. CV209-160

ORDER

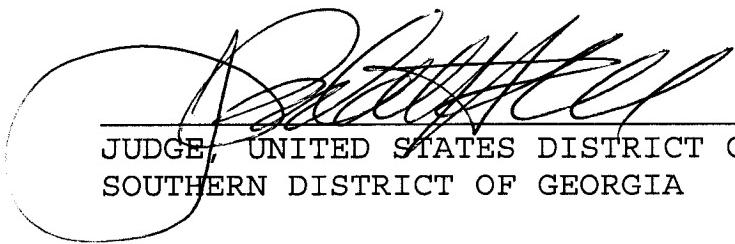
On March 19, 2010, Magistrate Judge James E. Graham entered a report and recommendation suggesting dismissal of Petitioner's case. After an independent review of Perry's objection to the Magistrate Judge's findings, the Court adopts the Magistrate Judge's report and recommendation and **GRANTS** the government's motion to dismiss the petition.

Dkt. No. 3 & 6. As Bess concedes, he cannot proceed with this action because it is barred as a second or successive motion under 28 U.S.C. § 2255. Dkt. No. 9 at 1. For that reason, Bess' petition is procedurally barred, and the prisoner's objection is **OVERRULED**.

Further, the Court **DENIES** Bess' motion to stay the Court's judgment in this case. Dkt. No. 9. Bess is free to pursue a certificate of appealability from the Eleventh Circuit, and if he is successful in obtaining the same, Bess

can pursue his legal claims before this Court at that time. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). The Clerk shall enter judgment accordingly. See also *United States v. Bess*, CR204-36, Dkt. Nos. 71, 73, 76, & 79 (S.D. Ga.).

SO ORDERED, this 11th day of May, 2010.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA